

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JERRY CARTER,)	
)	
Petitioner,)	
)	
v.)	No. 4:15CV389 JAR
)	
UNITED STATES OF AMERICA,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

Jerry Carter moves the Court to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Because Carter’s direct appeal is not resolved, the Court dismisses the motion without prejudice.

On December 5, 2014, the Court sentenced Carter to seventy months’ imprisonment for drug and gun crimes. United States v. Carter, No. 4:13CV334 JAR (E.D. Mo.). Carter appealed, and his appeal is pending before the Eighth Circuit. United States v. Carter, No. 14-3816 (8th Cir.). Briefing is due later this month.

District courts will not entertain § 2255 motions while an appeal is pending in the Court of Appeals or the Supreme Court. E.g., Kapral v. United States, 166 F.3d 565, 570 (3d Cir. 1999). As a result, the Court dismisses this action without prejudice to refiling when the appeal process is completed.

Finally, Carter has failed to demonstrate that jurists of reason would find it debatable whether the motion is properly before the Court. Therefore, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

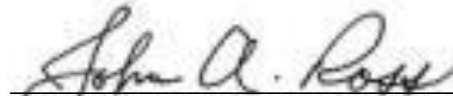
Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

An Order of Dismissal will be filed separately.

Dated this 2nd day of April, 2015.

A handwritten signature in cursive script, reading "John A. Ross", written in dark ink. The signature is positioned above a horizontal line.

JOHN A. ROSS
UNITED STATES DISTRICT JUDGE